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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,080	06/25/2003	Robert W. Allington	18-529-8-1	6542

23898 7590 12/13/2004

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EXAMINER	
THERKORN, ERNEST G	

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/607,080	ALLINGTON ET AL.
	Examiner	Art Unit
	Ernest G. Therkorn	1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-106* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-106* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-18 and 28-30, drawn to a chromatographic system, classified in class 210, subclass 198.2.

II. Claims 19-27, drawn to a method of performing chromatography, classified in class 210, subclass 635.

III. Claims 31-58, drawn to a column, classified in class 210, subclass 198.1.

IV. Claims 59-63, drawn to an apparatus for making a column, classified in class 210, subclass 541.

V. Claims 64-70, 80-91, and 93, drawn to methods of making monoliths, classified in class 210, subclass 656.

VI. Claims 71-79, drawn to polymerization mixture, classified in class 210, subclass 500.1.

VII. Claims 92, drawn to a separation medium, classified in class 210, subclass 502.1.

VIII. Claims 94-98 and 101-104, drawn to a method of controlling polymerization with radiation, classified in class 210, subclass 748.

IX. Claims 99-100, drawn to a radiation polymerization medium, classified in class 210, subclass 510.1.

X. Claims 105-106, drawn to a radiation applying apparatus, classified in class 210, subclass 502.1.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

The inventions are distinct, each from the other because:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed could be used to practice another and materially different process. For example, the apparatus could be used as a chemical or biochemical reactor in a chemical or biochemical reaction process.

Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed could be used to practice another and materially different process. For example, the apparatus could be used as a chemical or biochemical reactor in a chemical or biochemical reaction process.

Inventions I and IV are not related because they are different apparatus with different purposes and different elements.

Inventions I and V are not related because they are different processes with different purposes and different steps.

Inventions I and VI are not related because the polymerization mixture is not used in the chromatographic system.

Inventions I and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it could use other separation mediums. The subcombination has separate utility such as a catalyst or biocatalyst.

Inventions I and VIII are not related because the method of Group VIII does not produce the apparatus of Group I.

Inventions I and IX are not related because the polymerization mixture is not used in the chromatographic system.

Inventions I and X are not related because they are different apparatus with different purposes and different elements.

Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed could be used to practice another

and materially different process. For example, the apparatus could be used as a chemical or biochemical reactor in a chemical or biochemical reaction process.

Inventions II and IV are not related because the apparatus of Group IV is not used in the method of Group II.

Inventions II and V are not related because the different methods have different purposes with different steps.

Inventions II and VI are not related because the polymerization mixture is not used in the method of Group II.

Inventions II and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it could use other separation mediums. The subcombination has separate utility such as a catalyst or biocatalyst.

Inventions II and VIII are not related because they are different methods with different purposes and different steps.

Inventions II and IX are not related because the polymerization mixture is not used in the method of Group II.

Inventions II and X are not related because the apparatus of Invention X is not used in the method of Invention II.

Inventions III and IV are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case, the product as claimed could be used to make another and materially different apparatus. For example, the product could be made by placing the reaction mixture in a tube.

Inventions III and V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed could be made by another and materially different process. For example, the product could be made at ambient temperature and pressure.

Inventions III and VI are not related because the polymerization mixture is not a part of the column of Invention III.

Inventions III and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the

particulars of the subcombination as claimed because the column could use other separation mediums. The subcombination has separate utility such as a catalyst or biocatalyst.

Inventions III and VIII not related because the method of Group VIII does not produce the column of Group III.

Inventions III and IX are not related because the radiation polymerization medium is not a part of the column of Invention III.

Inventions III and X are not related because they are different apparatus with different purposes and different elements.

Inventions IV and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed could be used to practice another and materially different process. For example, the apparatus as claimed could be used to form diamonds.

Inventions IV and VI are not related because the mixture of Invention VI is not part of the apparatus of Invention IV.

Inventions IV and VII are not related because the separation medium of Invention VII is not part of the apparatus of Invention IV.

Inventions IV and VIII are not related because the method of Invention VIII does not use the apparatus of Invention IV.

Inventions IV and IX are not related because the radiation polymerization of Invention Ix is not part of the apparatus of Invention IV.

Inventions IV and X are not related because they are alternative apparatus for a column.

Inventions V and VI are not related because the process of Invention V does not require the polymerization mixture of Invention VI

Inventions V and VII are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, product as claimed could be made by another and materially different process. For example, the product could be made at ambient temperature and pressure.

Inventions V and VIII are not related because they are alternative methods for making monoliths.

Inventions V and IX are not related because the process of Invention V does not require the polymerization mixture of Invention IX.

Inventions V and X are not related because the method of Invention V uses a different apparatus for making monoliths.

Invention VI and VII are not related because they are different products

Inventions VI and VIII are not related because the mixture of Invention VI is not used in the method of Invention VIII.

Inventions VI and IX are not related because they are alternative mixtures to make alternative products.

Invention VI and X are not related because the mixture of Invention VII is not used in the apparatus of Invention X.

Inventions VII and VIII are not related because the separation medium of Invention VII is made by an alternative process.

Inventions VII and IX are not related because the separation medium of Invention VII is made with a different polymerization medium.

Inventions VII and X are not related because the separation medium of Invention VII is made with a different apparatus.

Inventions VIII and IX are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it could use other mixtures. The subcombination has separate utility such as marker for an analyte.

Inventions VIII and X are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed could be used to sterilize materials.

Inventions IX and X are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention X has separate utility such as a sterilization device. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In addition to the restriction requirement, the following election of species is required:

ELECTION

This application contains claims directed to the following patentably distinct species of the claimed invention: Each combination of monomers in the recited proportion, such as divinylbenzene and styrene in the range of 3 to 1 through 9 to 1 or the product of such a combination, is considered to be distinct species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is considered to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Vincent Carney on November 30, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ernest G. Therkorn

Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT
December 7, 2004